

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

COLUMBUS MALONE,	)	
	)	
Petitioner	)	
	)	
v.	)	Cause No.: 2:10-CV-457
	)	(arising out of 2:02-CR-44(2)RM)
UNITED STATES OF AMERICA,	)	
	)	
Respondent	)	

OPINION AND ORDER

The court construes Columbus Malone's notice of appeal challenging the court's May 25, 2011 order denying his petition under 28 U.S.C. § 2255, as a motion for leave to proceed *in forma pauperis* on appeal and for a certificate of appealability.

Issuance of a certificate of appealability requires the court to find that Mr. Malone has made "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2); Miller-El v. Cockrell, 537 U.S. 322, 336 (2003). This means he must show "that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were 'adequate to deserve encouragement to proceed further.'" Miller-El v. Cockrell, 537 U.S. at 336. For the reasons stated in the May 25, 2011 opinion and order denying his habeas petition, Mr. Malone is far from meeting that burden. Accordingly, the court denies his motion for a certificate of appealability.

Federal Rule of Appellate Procedure 24(a)(3) provides that a financially indigent person may be permitted to proceed on appeal *in forma pauperis* unless the court “certifies that the appeal is not taken in good faith.” In other words, the court must decide “that a reasonable person could suppose that the appeal has some merit.” Walker v. O’Brien, 216 F.3d 626, 632 (7th Cir. 2000). Because no reasonable person could find that Mr. Malone’s appeal has any merit, the court concludes that his appeal is not taken in good faith, and his request for pauper status must be denied.

For these reasons, Mr. Malone’s motion for leave to proceed *in forma pauperis* on appeal and for a certificate of appealability is DENIED.

SO ORDERED.

ENTERED: August 22, 2011

          /s/ Robert L. Miller, Jr.            
Judge  
United States District Court

cc: C. Malone  
A. Tavitas  
D. Peilet  
J. Barrett